



# California Fair Political Practices Commission

November 20, 1986

Charles Ellis, Councilmember  
City of Coachella  
c/o Coachella Valley Insurance Service, Inc.  
P.O. Box 815  
Coachella, CA 92236

Re: Your Request for Informal  
Assistance  
Our File No. I-86-303

Dear Councilmember Ellis:

You have written stating the following question for our consideration.

## QUESTION

Do the conflict of interest provisions of the Political Reform Act prevent renewal or extension of your office's lease of property located within Coachella Redevelopment Project #1?

## CONCLUSION

The Political Reform Act does not prevent renewal or extension of your office lease. However, you should confer with your redevelopment agency counsel or city attorney for a clarification of the provisions of Health and Safety Code Section 33130.

## FACTS

You are a member of the Coachella City Council and, hence, of its Redevelopment Agency Board. You have an insurance office which leases its space within Coachella Redevelopment Project #1. You have several years to go on the lease, but wish to know whether you can extend or renew the lease in light of your positions on the Council and the Redevelopment Agency.

ANALYSIS

The Political Reform Act (the "Act")<sup>1/</sup> provides that no public official shall make, participate in making or attempt to use his official position to influence any governmental decision in which he or she has a financial interest. (Section 87100.) Consequently, you may not participate in any way in any decision by either the Council or the Agency which will have a reasonably foreseeable material financial effect upon your leasehold interest or upon your insurance agency or any source of income to you through your insurance agency.<sup>2/</sup> For specific advice regarding any such future decision, please do not hesitate to contact this office.

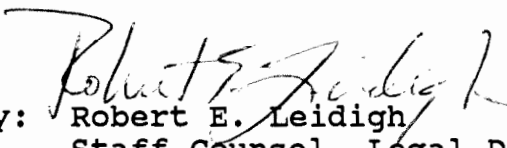
Your letter more directly questions whether particular actions you may take as a private businessman, as opposed to actions taken as a public official, would constitute a conflict of interest under the Act. The Act does not govern private activities, only participation in governmental decisions. The question which you pose is more appropriately addressed by the conflict of interest provisions of redevelopment law, specifically Health and Safety Code Section 33130 (copy enclosed).

We urge that you consult with your city attorney, redevelopment agency counsel, or your private attorney for advice on provisions of redevelopment law.

For questions regarding the provisions of the Act, I may be reached at (916) 322-5901.

Sincerely,

Diane M. Griffiths  
General Counsel

  
By: Robert E. Leidigh  
Staff Counsel, Legal Division

REL:plh  
Enclosure

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<sup>1/</sup> Government Code Sections 81000-91015. All statutory references are to the Government Code unless otherwise indicated.

<sup>2/</sup> See, Sections 82030(a), 87100 and 87103.

## § 33123

### Note 1

the public health, safety, or welfare, but might consist of an "area" and, thus, to extent ordinance purported to modify or amend redevelopment plan previously adopted pursuant

to community development law, it would have to fail as an improper amendment to redevelopment plan. *Kehoe v. City of Berkeley* (1977) 135 Cal.Rptr. 700, 67 C.A.3d 666.

§ 33124. Repealed by Stats.1982, c. 497, p. 2200, § 124, operative July 1, 1983,

### Law Revision Commission Comment 1982 Repeal

Former Section 33124 is not continued. Property of a redevelopment agency—a public entity—is not subject to enforcement of a money judgment. See Code Civ. Proc.

§ 695.050; Gov't Code § 970.1. See also Code Civ.Proc. § 487.020 (exemptions from attachment) (15 Cal.L.Rev. Comm. Reports 2001).

§ 33125.5. Proceeding of meetings; record

An agency shall keep a record of the proceedings of its meetings and those records shall be open to examination by the public to the extent required by law.

(Amended by Stats.1977, c. 797, p. 2443, § 4.)

1977 Amendment. Added provision for public examination.

Severability of provisions of Stats.1977, c. 797, see note under § 33080.

§ 33130. Conflicts of interest; acquiring interest to participate as owner or to reenter business; certain rental agreements or property leases not property interests under this section

(a) No agency or community officer or employee who in the course of his or her duties is required to participate in the formulation of, or to approve plans or policies for, the redevelopment of a project area shall acquire any interest in any property included within a project area within the community. If any such officer or employee owns or has any direct or indirect financial interest in \* \* \* property included within a project area, that officer or employee shall immediately make a written disclosure of that financial interest to the agency and the legislative body and the disclosure shall be entered on the minutes of the agency and the legislative body. Failure to make the disclosure required by this subdivision constitutes misconduct in office.

(b) Subdivision (a) does not prohibit any agency or community officer or employee from acquiring an interest in property within the project area for the purpose of participating as an owner or reentering into business pursuant to this part if that \* \* \* officer or employee has owned a substantially equal interest as that being acquired for the three years immediately preceding the selection of the project area.

(c) A rental agreement or lease of property which meets all of the following conditions is not an interest in property for purposes of subdivision (a):

(1) The rental or lease agreement contains terms that are substantially equivalent to the terms of a rental or lease agreement available to any member of the general public for comparable property in the project area.

(2) The rental or lease agreement includes a provision which prohibits any subletting, sublease, or other assignment at a rate in excess of the rate in the original rental or lease agreement.

(3) The property which is subject to the rental or lease agreement is used in the pursuit of the principal business, occupation, or profession of the officer or employee.

(4) The agency or community officer or employee who obtains the rental or lease agreement immediately makes a written disclosure of that fact to the agency and the legislative body.

(Amended by Stats.1985, c. 87, p. —, § 1.)

### 1983 Legislation.

Application of this section to the City of Coalinga when adopting or amending redevelopment plans within the city and when issuing bonds to finance multifamily rental housing, see note under § 33300.

1985 Amendment. Rewrote the first paragraph which had read:

"No agency or community officer or employee who in the course of his duties is required to participate in the formulation of or to approve plans or policies for the redevelopment of a project area shall acquire any interest in any property included within a project area within the community. If any such officer or employee owns or has any direct or indirect financial interest in such property, he shall immediately make a written disclosure of it to the agency and the

Underline indicates changes or additions by amendment

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# Coachella Valley Insurance Service Inc.

GENERAL INSURANCE

OCT 30 3 33 PM '86

Post Office Box 815 • Coachella, CA 92236

October 28, 1986

Fair Policital Practices Commission  
428 "J" Street  
Sacramento, CA  
95814

Gentlemen:

I am presently on the City Council of Coachella, California, serving this year as Mayor and would appreciate your opinion on the following.

I have been in business on Sixth Street for approximately 35 years. Presently I lease (for the past seven year) an office building within two blocks of my very first location.

We have eight years remaining on our current lease. At different times in the past we have been in casual negotiations to purchase this leased building, but never got serious about it due to the comfort of the long lease we had.

Since we are now located in Coachella Redevelopment Project #1, which I abstained from voting on when the project was formed, I have abandoned the idea of owning this building. I was also advised that I probably could not extend my lease.

However, I spoke to someone in your office a couple of months ago and was told that perhaps my advice was not accurate and that extending the lease may not be a conflict of interest due to my long tenure at this location.

I certainly would appreciate your opinion on this matter as it is important to the future of my business to have the option to continue at this location when the current lease expires.

Many thanks for your reply.

Sincerely,

COACHELLA VALLEY NISURANCE SERVICE, INC.

*Charles Ellis*

Charles Ellis

CE:cj



# California Fair Political Practices Commission

November 3, 1986

Charles Ellis  
Coachella Valley Insurance Service, Inc.  
P.O. Box 615  
Coachella, CA 92236

Re: 86-303

Dear Mr. Ellis:

Your letter requesting advice under the Political Reform Act was received on October 30, 1986 by the Fair Political Practices Commission. If you have any questions about your advice request, you may contact Robert E. Leidigh, an attorney in the Legal Division, directly at (916) 322-5901.

We try to answer all advice requests promptly. Therefore, unless your request poses particularly complex legal questions, or more information is needed, you should expect a response within 21 working days.

Very truly yours,

Diane M. Griffiths  
General Counsel

DMG:plh